



Full Appropriations Council on Education & Economic Development

April 15, 2009

2:00 p.m.

Morris Hall, 17 House Office Building

Meeting Packet

**Larry Cretul
Speaker**

**David Rivera
Chair**



The Florida House of Representatives

Full Appropriations Council on Education & Economic Development

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Speaker

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Meeting Agenda **Wednesday, April 15, 2009** **Morris Hall, 17 House Office Building** **2:00 p.m.**

I. Call to Order

II. Roll Call

III. Consideration of the following bills:

CS/CS/HJR 97 - Additional Homestead Exemption for First-Time Homestead Property Owners by Finance & Tax Council, Military & Local Affairs Policy Committee, and Representative Domino

CS/HB 443 – Johnnie B. Byrd Sr., Alzheimer’s Center and Research Institute by State Universities & Private Colleges Policy Committee and Representative Burgin

CS/HB 491 – H. Lee Moffitt Cancer and Research Institute by Civil Justice & Courts Policy Committee and Representative Coley

IV. Adjournment



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HJR 97
Property Owners

Additional Homestead Exemption for First-Time Homestead

SPONSOR(S): Finance & Tax Council; Military & Local Affairs Policy Committee; Domino and others

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	14 Y, 1 N, As CS	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council	10 Y, 5 N	Noriega	Tinker
3)	Finance & Tax Council	13 Y, 0 N, As CS	Shaw	Langston
4)	Full Appropriations Council on Education & Economic Development		Fennell 	Martin 
5)				

SUMMARY ANALYSIS

This joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution to provide a new, additional homestead exemption for a homeowner the first time he or she establishes a homestead in Florida in an amount equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The amount of the additional exemption shall not exceed \$250,000, and will be reduced in each succeeding year for five years by the greater of 20 percent of the initial additional exemption or the amount by which the homestead's assessed value is lower than just value because of the Save Our Homes benefit. This additional exemption would be available for properties purchased after January 1, 2010.

The proposed constitutional amendment will be submitted to the electors at the general election in November, 2010 or at an earlier special election if specifically authorized through a law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect in January 1, 2011, and first apply to assessments in 2011.

The Department of State estimates that the cost of the proposed amendment is \$106,272. This cost is the result of placing the amendment on the ballot and publishing the notices as required by the Florida Constitution.

The Revenue Estimating Conference (REC) has adopted an indeterminate negative fiscal impact because the proposed amendment would require voter approval. However, if the electorate approves the amendment, the statewide negative fiscal impact on school taxes would be \$53.0 million in fiscal year 2011-12, and could increase to \$156.0 million in fiscal year 2015-16. In addition, the statewide negative fiscal impact on non-school taxes would be \$67.0 million in fiscal year 2011-12, and could increase to \$202.0 million in fiscal year 2015-16.

The joint resolution must be approved by a three-fifths vote of the membership of each house of the Legislature.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Overview of Ad Valorem Taxation and Assessments

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts. The amount of tax levied is based on the taxable value of real and tangible personal property as of January 1 of each year and the tax rate (millage rate) applied to such value.¹ Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.²

With the exception of the ad valorem tax and other home-rule revenue sources, local governments are dependent on the Legislature for authority to levy any other forms of taxation. The property tax is the largest single tax revenue source for local governments in Florida, with approximately \$31.0 billion levied in fiscal year 2007–08, which represents a 1.87 percent increase from FY 2006-07 and is more than twice the \$15.3 billion collected during FY 2000-01. Ad valorem property tax revenues are also the primary tax revenue source for school districts. Of the \$31.0 billion levied statewide during FY 2007-08, school districts levied an estimated \$13.25 billion in property taxes.³

The "taxable value" of real and tangible personal property is the fair market value, or "just value," of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.⁴ The Florida Constitution strictly limits the Legislature's authority to provide exemptions or adjustments to fair market value.⁵

¹ Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in s. 1(b), Art. VII of the State Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

² Article VII, s. 1(a), Florida Constitution.

³ *Florida Tax Handbook*, 2008.

⁴ Sections 192.001(2) and (16), F.S., define the terms "assessed value" and "taxable value." "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. "Just value" is the estimated fair market value of the property.

Constitutional Homestead Preferences Prior to January 29, 2008

Prior to January 29, 2008, Article VII (Finance and Taxation) of the Florida Constitution provided the following general homestead property tax preferences:

- An exemption equal to \$25,000 of the property's value applicable to all taxes;⁶ and
- A limit on annual assessment increases equal to the lower of the change in the Consumer Price Index (CPI) or 3 percent. This is the popularly named "Save Our Homes" amendment to the State Constitution, which was approved by the voters in 1992.⁷

Also, certain taxpayers are entitled to receive additional exemptions for their homesteads. These include low-income elderly,⁸ disabled veterans,⁹ widows and widowers, and persons who are blind or totally and permanently disabled.¹⁰

January 29, 2008, Constitutional Amendment

On January 29, 2008, a constitutional amendment approved by Florida's voters made the following two homestead-related changes to Article VII of the Florida Constitution:

- Allowed an additional homestead exemption of up to \$25,000 for assessed value between \$50,000 and \$75,000, which does not apply to school district tax bases;¹¹ and
- Allowed homestead property owners relocating to a new homestead within the state the ability to transfer up to \$500,000 of value protected from taxation due to the Save Our Homes assessment limitation. This concept is also known as "portability."¹²

Proposed Changes

This joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution to provide an additional homestead exemption for a homeowner the first time they establish a homestead in Florida. The amount of the exemption is equal to 50 percent of the homestead property's just value on January 1 of the year the homestead is established. The amount of the exemption shall not exceed \$250,000, and this amount is reduced in each succeeding year for five years by the greater of:

- 20 percent of the initial additional exemption; or
- The difference between just value and assessed value as determined under Article VII, section 4(d) (this is the assessment amount protected from taxation by Save Our Homes).

This additional exemption would be available for properties purchased after January 1, 2010. However, this additional exemption would not be available to homeowners in the sixth year and subsequent years after the exemption is first received.

⁵ Article VII, s. 4, Florida Constitution.

⁶ Article VII, s. 6, Florida Constitution.

⁷ Article VII, s. 4(d), Florida Constitution.

⁸ Article VII, s. 6(d), Florida Constitution.

⁹ Article VII, s. 6(e), Florida Constitution.

¹⁰ Article VII, s. 3(b), Florida Constitution.

¹¹ Article VII, s. 6, Florida Constitution.

¹² Article VII, s. 4(d), Florida Constitution.

Also, this additional exemption would not be available if any property owner has previously owned homestead property in Florida, and no more than one additional exemption would be allowed per homesteaded property.

The proposed constitutional amendment will be submitted to the electors at the general election in November, 2010 or at an earlier special election if specifically authorized through a law enacted by the Legislature for that purpose. If approved by 60 percent of the voters at the 2010 general election, the proposed amendment will take effect on January 1, 2011, and first apply to assessments in 2011 because January 1 is the assessment date for property taxes.¹³ Additionally, the proposed amendment specifically provides that the exemption will be available for homes purchased in 2010 and thereafter.

B. SECTION DIRECTORY:

Not applicable to a joint resolution.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution will not have a direct effect on state government revenues.

2. Expenditures:

The state constitution requires publication of a proposed amendment or revision to the constitution in one newspaper of general circulation in each county in which a newspaper is published, once in the tenth week and once in the sixth week immediately preceding the week in which the election is held.¹⁴

Based on the 2008 election costs to advertise a proposed constitutional amendment, the Department of State, Division of Elections, estimates that the total non-recurring cost to advertise the proposed amendment is \$106,272. This cost is determined by multiplying the total number of words in the proposed amendment (approximately 1,155) by the per word cost of \$92.01.¹⁵ The Department of State notes that there is no appropriation associated with the proposed joint resolution at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Impact on School Taxes

The Revenue Estimating Conference (REC) has adopted an indeterminate negative fiscal impact because the proposed amendment would require voter approval. However, if the electorate approves the amendment, the statewide negative fiscal impact on school taxes would be \$53.0 million in FY 2011-12.

Beyond FY 2011-12, the REC has determined that the proposed amendment would have the following statewide negative fiscal impact on school taxes:

- \$100.0 million in FY 2012-13;

¹³ Article VII, s. 4, Florida Constitution.

¹⁴ Article XI, sec. 5(d), Florida Constitution.

¹⁵ Based on information and methodology received from staff of the Department of State.

- \$133.0 million in FY 2013-14;
- \$149.0 million in FY 2014-15; and
- \$156.0 million in FY 2015-16.

Impact on Non-School Taxes

According to the REC, if the electorate approves the proposed amendment, the statewide negative fiscal impact on non-school taxes would be \$67.0 million in FY 2011-12.

Beyond FY 2011-12, the REC has estimated the following statewide negative fiscal impact on non-school taxes:

- \$129.0 million in FY 2012-13;
- \$172.0 million in FY 2013-14;
- \$193.0 million in FY 2014-15; and
- \$202.0 million in FY 2015-16.

These reductions could result in lower expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current levels of property tax revenues.

2. Expenditures:

Property Appraisers may incur additional costs to implement the provisions of the joint resolution.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals who are first-time homeowners may experience lower taxes. Owners of other properties may experience higher taxes if local governments choose to adjust their millage rates to account for the tax base loss.

D. FISCAL COMMENTS:

Public school funding is statutorily tied to property taxes through the required local effort (RLE) – the amount of property taxes that a school district must levy in order to participate in the Florida Education Finance Program (FEFP). The provisions of the joint resolution will reduce the property tax base that is available for RLE.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to House Joint Resolutions.

2. Other:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or at a special election held for that purpose.

Article XI, section 5(e) of the Florida Constitution requires 60 percent voter approval for a constitutional amendment to pass.

B. RULE-MAKING AUTHORITY:

The joint resolution would not require any agency to adopt administrative rules; however, it may be necessary for the Legislature to authorize rulemaking by the Department of Revenue in future implementing legislation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 11, 2009, the Military & Local Affairs Policy Committee proposed a committee substitute for HJR 97. This proposed committee substitute was reported favorably with no additional amendments.

This analysis reflects the committee substitute adopted by the Military & Local Affairs Policy Committee.

On April 7, 2009, the Finance & Tax Council adopted one amendment which provided an implementation schedule. The schedule changed the effective date of the proposed amendment from January 4, 2011 to January 1, 2011 so the proposed amendment would apply to property tax assessments for 2011. Additionally the schedule provides that the proposed exemption would be available to homes purchased in 2010.

1 House Joint Resolution

2 A joint resolution proposing an amendment to Section 6 of
 3 Article VII and the creation of Section 31 of Article XII
 4 of the State Constitution to provide an additional
 5 homestead exemption for first-time homestead property
 6 owners and provide application and an effective date.

7
 8 Be It Resolved by the Legislature of the State of Florida:

9
 10 That the following amendment to Section 6 of Article VII
 11 and the creation of Section 31 of Article XII of the State
 12 Constitution are agreed to and shall be submitted to the
 13 electors of this state for approval or rejection at the next
 14 general election or at an earlier special election specifically
 15 authorized by law for that purpose:

16 ARTICLE VII

17 FINANCE AND TAXATION

18 SECTION 6. Homestead exemptions.--

19 (a) Every person who has the legal or equitable title to
 20 real estate and maintains thereon the permanent residence of the
 21 owner, or another legally or naturally dependent upon the owner,
 22 shall be exempt from taxation thereon, except assessments for
 23 special benefits, up to the assessed valuation of twenty-five
 24 thousand dollars and, for all levies other than school district
 25 levies, on the assessed valuation greater than fifty thousand
 26 dollars and up to seventy-five thousand dollars, upon
 27 establishment of right thereto in the manner prescribed by law.
 28 The real estate may be held by legal or equitable title, by the

29 | entireties, jointly, in common, as a condominium, or indirectly
 30 | by stock ownership or membership representing the owner's or
 31 | member's proprietary interest in a corporation owning a fee or a
 32 | leasehold initially in excess of ninety-eight years. The
 33 | exemption shall not apply with respect to any assessment roll
 34 | until such roll is first determined to be in compliance with the
 35 | provisions of Section 4 of this Article by a state agency
 36 | designated by general law. This exemption is repealed on the
 37 | effective date of any amendment to this Article which provides
 38 | for the assessment of homestead property at less than just
 39 | value.

40 | (b) Not more than one exemption shall be allowed any
 41 | individual or family unit or with respect to any residential
 42 | unit. No exemption shall exceed the value of the real estate
 43 | assessable to the owner or, in case of ownership through stock
 44 | or membership in a corporation, the value of the proportion
 45 | which the interest in the corporation bears to the assessed
 46 | value of the property.

47 | (c) By general law and subject to conditions specified
 48 | therein, the Legislature may provide to renters, who are
 49 | permanent residents, ad valorem tax relief on all ad valorem tax
 50 | levies. Such ad valorem tax relief shall be in the form and
 51 | amount established by general law.

52 | (d) The legislature may, by general law, allow counties or
 53 | municipalities, for the purpose of their respective tax levies
 54 | and subject to the provisions of general law, to grant an
 55 | additional homestead tax exemption not exceeding fifty thousand
 56 | dollars to any person who has the legal or equitable title to

57 | real estate and maintains thereon the permanent residence of the
 58 | owner and who has attained age sixty-five and whose household
 59 | income, as defined by general law, does not exceed twenty
 60 | thousand dollars. The general law must allow counties and
 61 | municipalities to grant this additional exemption, within the
 62 | limits prescribed in this subsection, by ordinance adopted in
 63 | the manner prescribed by general law, and must provide for the
 64 | periodic adjustment of the income limitation prescribed in this
 65 | subsection for changes in the cost of living.

66 | (e) Each veteran who is age 65 or older who is partially
 67 | or totally permanently disabled shall receive a discount from
 68 | the amount of the ad valorem tax otherwise owed on homestead
 69 | property the veteran owns and resides in if the disability was
 70 | combat related, the veteran was a resident of this state at the
 71 | time of entering the military service of the United States, and
 72 | the veteran was honorably discharged upon separation from
 73 | military service. The discount shall be in a percentage equal to
 74 | the percentage of the veteran's permanent, service-connected
 75 | disability as determined by the United States Department of
 76 | Veterans Affairs. To qualify for the discount granted by this
 77 | subsection, an applicant must submit to the county property
 78 | appraiser, by March 1, proof of residency at the time of
 79 | entering military service, an official letter from the United
 80 | States Department of Veterans Affairs stating the percentage of
 81 | the veteran's service-connected disability and such evidence
 82 | that reasonably identifies the disability as combat related, and
 83 | a copy of the veteran's honorable discharge. If the property
 84 | appraiser denies the request for a discount, the appraiser must

85 | notify the applicant in writing of the reasons for the denial,
86 | and the veteran may reapply. The Legislature may, by general
87 | law, waive the annual application requirement in subsequent
88 | years. This subsection shall take effect December 7, 2006, is
89 | self-executing, and does not require implementing legislation.

90 | (f) As provided by general law and subject to conditions
91 | specified therein, every person who establishes the right to
92 | receive the homestead exemption provided in subsection (a)
93 | within one year after purchasing the homestead property and who
94 | has not previously owned property to which the homestead
95 | exemption provided in subsection (a) applied is entitled to an
96 | additional homestead exemption in an amount equal to fifty
97 | percent of the homestead property's just value on January 1 of
98 | the year the homestead is established. The amount of the
99 | additional exemption shall not exceed two-hundred-fifty thousand
100 | dollars and shall be reduced in each subsequent year by an
101 | amount equal to twenty percent of the amount of the additional
102 | exemption received in the year the homestead was established or
103 | by an amount equal to the difference between the just value of
104 | the property and the assessed value of the property determined
105 | under Section 4(d) of this Article, whichever is greater. Not
106 | more than one exemption provided under this subsection shall be
107 | allowed per homestead property. The additional exemption is not
108 | available if any owner of the property has previously owned
109 | property to which the homestead exemption provided in subsection
110 | (a) applied. The additional exemption shall apply to property
111 | purchased after January 1, 2010, but shall not be available in

112 the sixth and subsequent years after the additional exemption is
 113 first received.

114 ARTICLE XII

115 SCHEDULE

116 SECTION 31. Additional homestead exemption for first-time
 117 homestead property owners.--The amendment to Section 6 of
 118 Article VII providing for an additional homestead exemption for
 119 first-time homestead property owners and this section shall take
 120 effect January 1, 2011, and shall be available for properties
 121 purchased on or after January 1, 2010.

122 BE IT FURTHER RESOLVED that the following statement be
 123 placed on the ballot:

124 CONSTITUTIONAL AMENDMENT

125 ARTICLE VII, SECTION 6

126 ARTICLE XII, SECTION 31

127 ADDITIONAL HOMESTEAD EXEMPTION FOR FIRST-TIME HOMESTEAD
 128 PROPERTY OWNERS.--Proposing an amendment to the State
 129 Constitution to provide first-time homestead property owners
 130 with an additional homestead exemption equal to 50 percent of
 131 the property's just value in the first year, limited to
 132 \$250,000; reduce the amount of the additional exemption in each
 133 succeeding year for five years by the greater of 20 percent of
 134 the amount of the initial additional exemption or the difference
 135 between the just value and the assessed value of the property;
 136 limit the additional exemption to one per homestead property;
 137 prohibit the additional exemption if any owner of the property
 138 previously owned property receiving the homestead exemption;
 139 limit the additional exemption to properties purchased after

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140 | January 1, 2010; prohibit availability of the additional
 141 | exemption in the sixth and subsequent years after the additional
 142 | exemption is granted; and provide for the amendment to take
 143 | effect January 1, 2011, and apply to properties purchased on or
 144 | after January 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Legislature created the Florida Alzheimer's Center and Research Institute at the University of South Florida (USF) in 2002,¹ and subsequently renamed it the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute (Byrd Institute) in 2004, in honor of the late father of Johnnie Byrd, Jr., Speaker of the Florida House of Representatives from 2002-2004.²

Current law directs the State Board of Education to enter into an agreement for the utilization of the facilities on the campus of USF to be known as the Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute, with a Florida not-for-profit corporation organized solely for the purpose of governing and operating the Byrd Institute. The agreement authority provided to the State Board of Education was transferred to the Board of Governors (BOG) effective July 1, 2007.³

The not-for-profit corporation, considered to be an instrumentality of the state, is authorized to create both not-for-profit and for-profit corporate subsidiaries, upon approval of the BOG, to fulfill its mission.⁴

The affairs of the not-for-profit corporation are managed by a board of directors. The board of directors is comprised of the President of USF and the chair of the BOG, or their designees, five representatives of the state universities, and nine representatives of the public who are neither medical doctors nor state employees. Of the five university representatives, one is appointed by the Governor, two are appointed by the President of the Senate, and two by the Speaker of the House of Representatives. Of the nine public representatives, three are appointed by the Governor, three by the President of the Senate, and three by the Speaker of the House of Representatives. Any vacancy in office must be filled in the same manner as the original appointment. Any director may be reappointed.⁵

The BOG must provide for the following in the agreement with the not-for-profit corporation:

- Approval by the BOG of the articles of incorporation of the not-for-profit corporation.
- Approval by the BOG of the articles of incorporation of any not-for-profit corporate subsidiary created by the not-for-profit.

¹ Ch. 2002-387, L.O.F.

² Ch. 2004-2, L.O.F.

³ Section 1004.445(2)(a), F.S.

⁴ Section 1004.445(2)(a), F.S.

⁵ Section 1004.445(2)(b), F.S.

- Utilization of lands, facilities, and personnel by the not-for-profit corporation and its subsidiaries for research, education, treatment, prevention, and the early detection of Alzheimer's disease and for mutually approved teaching and research programs conducted by USF or other accredited medical schools or research institutes.
- Preparation of an annual financial audit pursuant to s. 11.45, F.S., of the not-for-profit corporation's account, and the account of any subsidiaries, to be conducted by an independent certified public accountant.
- Provision by the not-for-profit and its subsidiaries of equal employment opportunities for all persons regardless of race, color, religion, gender, age, or national origin.

The BOG is authorized to secure comprehensive general liability protection, including professional liability protection, for the not-for-profit corporation and its subsidiaries.

In the event that the agreement between the not-for-profit corporation and the BOG is terminated for any reason, the BOG must assume governance and operation of the facilities.

The Byrd Institute must be administered by a chief executive officer who is appointed by and serves at the pleasure of the board of directors of the not-for-profit corporation. The chief executive officer's duties include:

- Establishing programs that fulfill the mission of the institute in research, education, treatment, prevention, and early detection of Alzheimer's disease. The chief executive officer may not establish academic programs for which academic credit is awarded and which culminate in the conferring of a degree without prior approval of the BOG.
- Controlling the budget and the monies appropriated to the institute from private, state, local, and federal sources.
- Appointing representatives of the institute to carry out the research, patient care, and educational activities of the institute and establishing the compensation, benefits, and terms of services of the representatives.
- Controlling the use and assignment of space and equipment within the facilities.
- Creating the administrative structure necessary to carry out the mission of the institute.
- Reporting to the BOG or its designees.
- Providing the institute's annual report to the Governor, the Cabinet, the Legislature, and the chair of the BOG.
- Developing the annual operating budget detailing the planned use of state, federal, and private funds for the fiscal year and submitting it by August 1 of each year to the Governor, the Cabinet, the Legislature, and the chair of the BOG.

The board of directors of the not-for-profit corporation must create a council of scientific advisers comprised of leading researchers, physicians, and scientists. The council must review programs and recommend research priorities and initiatives to maximize the state's investment in the institute.

Any university or established research institute in Florida may apply to the Byrd Institute for funding of their research. All qualified investigators in the state, regardless of institutional affiliation, must have equal opportunity to compete for the research funding. Grants must be awarded by the board of directors on the basis of scientific merit and preference may be given to proposals that foster collaboration among institutions, researchers, and community practitioners. Proposals must be evaluated on the basis of scientific merit by a peer review panel of independent, scientifically qualified individuals appointed by the council of scientific advisors. The council of scientific advisors and the peer review panel must establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest.⁶

⁶ Section 1004.445(8)(a), F.S.

Any appropriation to the Byrd Institute provided in a General Appropriations Act must be paid directly to the board of directors of the not-for-profit corporation by warrant drawn by the Chief Financial Officer from the State Treasury.⁷

No state appropriations were made to the Byrd Institute for the 2008-2009 fiscal year. Prior to Fiscal Year 2007-2008, the Institute received a recurring appropriation of \$15 million annually.⁸ The appropriation was reduced to \$13.5 million in Fiscal Year 2007-2008 during Special Session C⁹ and was eliminated in Fiscal Year 2008-2009.¹⁰ Currently, the Institute is using a cash reserve to fund ongoing operations.¹¹

Section 1004.445, F.S., will expire January 1, 2011, unless reviewed and reenacted by the Legislature before that date.

By June 1, 2009, the Division of Statutory Revision of the Office of Legislative Services must certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of s. 1004.445, F.S. The Legislature must review the performance, outcomes, and financial management of the Byrd Institute during the 2010 Regular Session of the Legislature and determine the most appropriate funding source and means of funding the center and institute based on its review.¹²

The Byrd Institute's Current Relationship with USF¹³

The Byrd Institute entered into an affiliation agreement with USF that was approved by the respective boards of both parties on July 18, 2008. Pursuant to the agreement, the parties created a Joint Affiliation Board consisting of three members appointed by the chair of the Byrd Institute Board and four members appointed by the chair of the USF Board of Trustees. The Joint Affiliation Board was delegated the statutory responsibilities, powers, and duties of the Byrd Institute Board; was made responsible for requiring that USF administrative policies relating to finance, audit, personnel, property, and research were followed; and was charged with assuring that funds held by the institute were expended exclusively to benefit the institute's statewide mission. The Joint Affiliation Board also appointed the Dean of the USF College of Medicine as the new chief executive officer of the institute. Under the Joint Affiliation Agreement, the existing Byrd Institute Board continues to function in an advisory/advocacy capacity and the Council of Scientific Advisors is retained. The Joint Affiliation Agreement further provides that the Byrd Institute facility on the USF campus is for the exclusive use of operating the institute and that any appropriation to the institute would be paid directly to the Byrd Institute Board.

Effect of Proposed Changes

CS/HB 443 establishes the Byrd Institute within USF and substantially rewords existing statutory provisions relating to the Byrd Institute. Current statutory provisions relating to the not-for-profit corporation created to govern and operate the Byrd Institute, the agreement between the not-for-profit and the BOG, the council of scientific advisers, application for research funding, and sunset of the Institute are removed.

CS/HB 443 states that the Byrd Institute has a statewide mission to advance research, education, treatment, prevention, and the early detection of Alzheimer's disease and is responsible for distributing competitive grant funds for Alzheimer's disease research.

The bill creates a seven-member board of directors to oversee the management and operation of the Byrd Institute. The Governor, the President of the Senate, and the Speaker of the House of

⁷ Section 1004.445(11), F.S.

⁸ Section 1004.445 (12), F.S. (2006); s. 561.121(1)(a)2., F.S. (2005).

⁹ Ch. 2007-332, L.O.F.

¹⁰ Ch. 2008-113, L.O.F.

¹¹ Telephone conversation with Board of Governors staff.

¹² Section 1004.445(12 & 13), F.S.

¹³ Affiliation Agreement between University of South Florida and Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute

Representatives each appoint one board member and the USF board of trustees appoint the remaining four board members. Members of the board of directors serve for a 4-year term and may be reappointed. Members of the board of directors may not receive a salary.

The bill requires the board of directors to:

- Approve the institute's annual budget and audit of expenditures.
- Ensure that the institute's funds are expended exclusively to benefit the institute's mission, unless otherwise authorized or directed by the Legislature.
- Ensure that the institute adheres to all administrative policies and procedures of USF including, but not limited to, university policies for finance, audit, personnel, property, and research administration.
- Transmit a copy of the institute's annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the BOG, and the USF Board of Trustees.

The bill allows the board of directors to organize and appoint an advisory council to the Byrd Institute. The duties of the advisory council may include, but are not limited to, the following:

- Meeting the institute's mission.
- Engaging community leaders and other concerned members of the public in supporting the institute's mission.
- Soliciting philanthropic support for the institute.

The bill requires that the Chief Executive Officer (CEO) be appointed by and serve at the pleasure of the president of USF or the president's designee. The CEO must:

- Appoint university faculty and staff to carry out the research, patient care, and educational activities of the institute.
- Administer the daily operation of the institute, including the use and assignment of space and equipment within the institute's facilities.
- Actively seek federal and private sources of grant money and donations for the purpose of funding and conducting research for Alzheimer's disease at the institute.
- Prepare an annual report for the institute which describes the expenditure of all of the institute's funds and provides information regarding research that has been conducted or funded by the institute, including the expected and actual results of the research.

The bill requires the budget of the Byrd Institute to include the moneys appropriated in the General Appropriations Act, donated, or otherwise provided to the Byrd Institute. Any appropriation to the institute must be expended for the purposes specified, including conducting and supporting research and related clinical services, awarding institutional grants and investigator-initiated research grants to other persons within the state through a competitive process, developing and operating integrated data projects, providing assistance to the memory disorder clinics, and providing for the operation of the Byrd Institute.

The bill preserves the Byrd Institute's public records exemption.

The bill requires that, on or before June 30, 2009, the board of directors of the not-for-profit corporation created as an instrumentality of the state pursuant to s. 1004.445, F.S., transfer all unexpended balances, records, functions, facilities, and assets of the institute to USF under the oversight of the board of directors of the Byrd Institute.

B. SECTION DIRECTORY:

- Section 1. Amending s. 1004.445, F.S.; establishing the institute within the University of South Florida; providing a mission for the institute; creating a board of directors to oversee the management and operation of the institute; providing for the appointment and terms of service of the members of the board of directors; providing for the election of a chair of the board of directors; providing for the duties of the board of directors; authorizing the board of directors to create an advisory council to the institute; providing that the institute shall be administered by a chief executive officer; providing for the duties of the chief

executive officer; requiring the chief executive officer to actively seek grant moneys to fund research at the institute; requiring the chief executive officer to submit an annual report of the institute's expenditures and research; specifying the sources of funding for the institute; requiring that any appropriation to the institute be expended for certain purposes; specifying certain information that is exempt from public-records requirement; and providing for the transfer of certain assets and records of the institute to the university.

Section 2. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

According to the Board of Governors, CS/HB 443 creates the potential for the University of South Florida to request operating funds for the Byrd Institute in their legislative budget request for Plant Operations and Maintenance funding. The estimated request based on cost factors for fiscal year 2009-2010 would be \$1.9 million.¹⁴

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities

¹⁴ Board of Governors analysis of HB 443 (March 3, 2009).

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2009, the State Universities & Private Colleges Policy Committee adopted a strike-all amendment to HB 443 and reported the bill favorably with a committee substitute. The bills differ in the following ways:

HB 443 creates a Florida not-for-profit corporation for the purpose of managing and operating the Johnnie B. Byrd, Sr. Alzheimer's Center and Research Institute and specifies powers and duties of the not-for-profit corporation, its board of directors, and its chief executive officer.

CS/HB 443 creates a seven-member board of directors to oversee the management and operation of the Byrd Institute and provides powers and duties of the board of directors and the chief executive officer of the Byrd Institute.

CS/HB 443 also requires the current board of directors to transfer all unexpended balances, records, functions, facilities, and assets of the institute to the University of South Florida under the oversight of the board of directors of the Byrd Institute on or before June 30, 2009.

1 A bill to be entitled
 2 An act relating to the Johnnie B. Byrd, Sr., Alzheimer's
 3 Center and Research Institute; amending s. 1004.445, F.S.;
 4 establishing the institute within the University of South
 5 Florida; providing a mission for the institute; creating a
 6 board of directors to oversee the management and operation
 7 of the institute; providing for the appointment and terms
 8 of service of the members of the board of directors;
 9 providing for the election of a chair of the board of
 10 directors; providing for the duties of the board of
 11 directors; authorizing the board of directors to create an
 12 advisory council to the institute; providing that the
 13 institute shall be administered by a chief executive
 14 officer; providing for the duties of the chief executive
 15 officer; requiring the chief executive officer to actively
 16 seek grant moneys to fund research at the institute;
 17 requiring the chief executive officer to submit an annual
 18 report of the institute's expenditures and research;
 19 specifying the sources of funding for the institute;
 20 requiring that any appropriation to the institute be
 21 expended for certain purposes; specifying certain
 22 information that is exempt from public records
 23 requirements; providing for the transfer of certain assets
 24 and records of the institute to the university; providing
 25 an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:
 28

29 Section 1. Section 1004.445, Florida Statutes, is amended
30 to read:

31 (Substantial rewording of section. See s. 1004.445, F.S.,
32 for present text.)

33 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and
34 Research Institute.--

35 (1) CREATION AND MISSION.--The Johnnie B. Byrd, Sr.,
36 Alzheimer's Center and Research Institute is established within
37 the University of South Florida. The institute has a statewide
38 mission to advance research, education, treatment, prevention,
39 and the early detection of Alzheimer's disease and is
40 responsible for distributing competitive grant funds for
41 Alzheimer's disease research.

42 (2) BOARD OF DIRECTORS.--The board of directors for the
43 Johnnie B. Byrd, Sr., Alzheimer's Center and Research Institute
44 is created to oversee the management and operation of the
45 institute.

46 (a) The board of directors shall consist of seven members
47 who shall serve at the pleasure of the entity that appoints
48 them. A board member's term shall expire after 4 years, but the
49 member may be reappointed to a subsequent 4-year term.

50 1. The Governor, the President of the Senate, and the
51 Speaker of the House of Representatives shall each appoint one
52 person to serve on the board of directors.

53 2. The Board of Trustees of the University of South
54 Florida shall appoint four persons to serve on the board of
55 directors. Trustees are eligible for appointment to the board of
56 directors.

57 3. The chair of the board of directors shall be elected by
 58 a majority vote from among the membership of the board.

59 (b) The board of directors shall:

60 1. Approve the institute's annual budget and audit of
 61 expenditures.

62 2. Ensure that the institute's funds are expended
 63 exclusively to benefit the institute's mission unless otherwise
 64 authorized or directed by the Legislature.

65 3. Ensure that the institute adheres to all administrative
 66 policies and procedures of the University of South Florida,
 67 including, but not limited to, university policies for finance,
 68 audit, personnel, property, and research administration.

69 4. Transmit a copy of the institute's annual report to the
 70 Governor, the President of the Senate, the Speaker of the House
 71 of Representatives, the Board of Governors of the State
 72 University System, and the Board of Trustees of the University
 73 of South Florida.

74 (c) Members of the board of directors may not receive a
 75 salary.

76 (3) ADVISORY COUNCIL.--The board of directors may organize
 77 and appoint an advisory council to the institute. The duties of
 78 the advisory council may include, but are not limited to,
 79 providing advice and advocacy in:

80 (a) Meeting the institute's mission.

81 (b) Engaging community leaders and other concerned members
 82 of the public in supporting the institute's mission.

83 (c) Soliciting philanthropic support for the institute.

84 (4) CHIEF EXECUTIVE OFFICER.--The institute shall be

85 administered by a chief executive officer who shall be appointed
86 by and serve at the pleasure of the president of the University
87 of South Florida or the president's designee. The chief
88 executive officer shall:

89 (a) Appoint university faculty and staff to carry out the
90 research, patient care, and educational activities of the
91 institute.

92 (b) Administer the daily operation of the institute,
93 including the use and assignment of space and equipment within
94 the institute's facilities.

95 (c) Actively seek federal and private sources of grant
96 money and donations for the purpose of funding and conducting
97 research for Alzheimer's disease at the institute.

98 (d) Prepare an annual report for the institute which
99 describes the expenditure of all of the institute's funds and
100 provides information regarding research that has been conducted
101 or funded by the institute, including the expected and actual
102 results of the research.

103 (5) BUDGET.--The institute's budget shall include the
104 moneys appropriated in the General Appropriations Act, donated,
105 or otherwise provided to the institute from private, local,
106 state, and federal sources, as well as technical and
107 professional income generated or derived from practice
108 activities at the institute. Any appropriation to the institute
109 shall be expended for the purposes specified in this section,
110 including conducting and supporting research and related
111 clinical services, awarding institutional grants and
112 investigator-initiated research grants to other persons within

113 the state through a competitive process, developing and
 114 operating integrated data projects, providing assistance to the
 115 memory disorder clinics established in s. 430.502, and providing
 116 for the operation of the institute.

117 (6) PUBLIC RECORDS EXEMPTION.--The following information
 118 is confidential and exempt from s. 119.07(1) and s. 24, Art. I
 119 of the State Constitution:

120 (a) Personal identifying information relating to clients
 121 of programs created by or funded through the Johnnie B. Byrd,
 122 Sr., Alzheimer's Center and Research Institute which is held by
 123 the institute, the University of South Florida, the Board of
 124 Governors, or the State Board of Education.

125 (b) Patient medical or health records held by the
 126 institute.

127 (c) Materials that relate to methods of manufacture or
 128 production, potential trade secrets, potentially patentable
 129 material, actual trade secrets as defined in s. 688.002, or
 130 proprietary information received, generated, ascertained, or
 131 discovered during the course of research conducted by the
 132 institute and business transactions resulting from such
 133 research.

134 (d) Personal identifying information of a donor or
 135 prospective donor to the institute who wishes to remain
 136 anonymous.

137 (e) Any information received by the institute from a
 138 person from another state or nation or from the Federal
 139 Government which is otherwise confidential and exempt under the
 140 laws of that state or nation or under federal law.

141
 142 Any governmental entity that demonstrates a need to access
 143 information that is confidential and exempt in order to perform
 144 its duties and responsibilities shall have access to such
 145 information.

146 Section 2. On or before June 30, 2009, the board of
 147 directors of the not-for-profit corporation created as an
 148 instrumentality of the state pursuant to s. 1004.445, Florida
 149 Statutes 2008, shall transfer all unexpended balances, records,
 150 functions, facilities, and assets of the institute to the
 151 University of South Florida under the oversight of the board of
 152 directors of the Johnnie B. Byrd, Sr., Alzheimer's Center and
 153 Research Institute created by section 1 of this act.

154 Section 3. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

Bill No. **CS/HB 443**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Full Appropriations Council on
2 Education & Economic Development
3 Representative Legg offered the following:
4

5 **Amendment**

6 On Page 2, Line 40, and on Page 5, Line 113, BEFORE the
7 word "competitive"

8
9 insert:

10 peer-reviewed
11
12

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 491 H. Lee Moffitt Cancer Center and Research Institute
SPONSOR(S): Civil Justice & Courts Policy Committee; Coley and others
TIED BILLS: None IDEN./SIM. BILLS: SB 884

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: State Universities & Private Colleges Policy Committee, 11 Y, 0 N, Thomas, Tilton. Row 2: Civil Justice & Courts Policy Committee, 9 Y, 1 N, As CS, Bond, De La Paz. Row 3: Full Appropriations Council on Education & Economic Development, Smith, Martin.

SUMMARY ANALYSIS

The H. Lee Moffitt Cancer Center and Research Institute ("Moffitt Center") is a leading cancer research and treatment center in Tampa that was created by the Legislature in 1987 and is affiliated with the University of South Florida. This bill amends laws regarding the center to:

- Expand the teaching and research programs of the Moffitt Center to other state universities, in addition to the University of South Florida.
Specify that any authorized and approved subsidiary corporation of the H. Lee Moffitt Cancer Center and Research Institute is an instrumentality of the state, thus entitled to the sovereign immunity protections of Florida law.
Require additional control over subsidiaries.
Allow professional income generated by institute members from practice activities to be shared between the Moffitt Center and its subsidiaries, as determined by the chief executive officer.
Allow state university faculty to hold concurrent appointments at the center.
Allow the center to utilize faculty physician licensure provisions in the same manner as the medical schools in the state.

This bill does not appear to have a fiscal impact on state or local government.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The H. Lee Moffitt Cancer Center and Research Institute

History

In 1987, the Florida Legislature established the Moffitt Cancer Institute at the University of South Florida (USF).¹ The Board of Regents (BOR) was required to enter into an agreement for the utilization of the facilities on the USF campus known as the H. Lee Moffitt Cancer Center and Research Institute with a not-for-profit organization that was certified by the BOR as a direct support organization. The not-for-profit corporation, acting as an instrumentality of the state, was required to govern and operate the Moffitt Cancer Institute in accordance with the terms of the agreement between the BOR and the not-for-profit corporation. The agreement was required to provide for the following:

- Approval of the articles of incorporation of the not-for-profit corporation by the BOR.
- Certification of the not-for-profit corporation by the BOR as a university direct support organization.
- Utilization of hospital facilities and personnel for mutually approved teaching and research programs conducted by USF.

In 1993, the Legislature granted the not-for-profit corporation the ability to create not-for-profit subsidiaries to provide it the flexibility necessary to compete in the health care industry.² The legislative intent section of Ch. 93-167, L.O.F., includes the following statement:

“Whereas, the Legislature considers the not-for-profit corporation that governs and operates the H. Lee Moffitt Cancer Center and Research Institute to be performing a statewide function and to be a corporation primarily acting as an instrumentality of the state, and, therefore, considers any subsidiaries created by virtue of this act to be corporations acting primarily as instrumentalities of the state...”

The 2002 School Code Rewrite replaced references to the Board of Regents with references to the State Board of Education (SBE).³ In 2004, the Legislature authorized the not-for-profit corporation, with

¹ Ch. 87-121, L.O.F.

² Ch. 93-167, L. O. F.

³ Ch. 2002-387, L.O.F.

prior approval of the SBE, to create for-profit corporate subsidiaries as well as not-for-profit corporate subsidiaries.⁴ The responsibilities of the SBE with regard to the Moffitt Cancer Institute, including the agreement between the SBE and the not-for-profit corporation, were transferred to the Board of Governors in 2007.⁵

Today, the Moffitt Cancer Center employs over 3,800 people. The center covers 1,648,869 square feet. From 2007 to 2008, admissions increased from 7,261 to 7,482, and outpatient visits rose from 264,533 to 272,532. Grant funding increased from \$58.4 million in 2007 to \$59.7 million in 2008, of which \$45.7 million were funds from peer-reviewed grants. The Moffitt Cancer Center is licensed for 162 beds, plus a 26-bed blood and marrow transplant unit. The center has 11 operating rooms, together with diagnostic radiology, MRI, PET and digital mammography capabilities, plus radiation therapy with five linear accelerators.⁶

Current Role of the Board of Governors related to the Center

The Board of Governors must provide for the following in the agreement with the not-for-profit corporation:

- Approval of the articles of incorporation of the not-for-profit corporation and any not-for-profit subsidiary;
- Use of lands, facilities, and personnel by the not-for-profit corporation and its subsidiaries for mutually approved teaching and research programs conducted by the University of South Florida or other accredited medical schools or research institutes;
- Preparation of an annual financial audit of the accounts and records of the not-for-profit corporation and all subsidiaries and submittal of the annual audit report and a management letter to the Auditor General and the Board of Governors for review. The Board of Governors, the Auditor General, and the Office of Program Policy Analysis and Government Accountability are authorized to require and receive any detail or supplemental data relative to the operation of the not-for-profit corporation or subsidiary; and
- Provision by the not-for-profit corporation and its subsidiaries of non-discrimination.

The Board of Governors is authorized to secure comprehensive general liability protection, including professional liability protection, for the not-for-profit corporation and its subsidiaries pursuant to s. 1004.24, F.S.⁷

In the event that the agreement between the not-for-profit corporation and the Board of Governors terminates, the Board of Governors resumes governance and operation of the facilities.⁸

Administration of the Moffitt Cancer Institute

The not-for-profit corporation is managed by a board of directors consisting of the President of the University of South Florida, the chair of the Board of Governors or his/her designee, 5 representatives of the state universities, and between 10-14 additional directors who are not medical doctors or state employees. The Moffitt Cancer Institute is administered by a chief executive officer who serves at the pleasure of the board of directors.

State corporate records show that the H. Lee Moffitt Cancer Center and Research Institute, Inc., was incorporated as not-for-profit corporation in 1984. There are three apparent not-for-profit related Florida

⁴ Ch. 2004-2, L.O.F.

⁵ Ch. 2007-217, L.O.F.

⁶ From <http://www.moffitt.org/Site.aspx?spid=2C9AD5376A2545AEBC60CB4F4CFB1EED>, accessed on 3/17/2009.

⁷ Section 1004.43(3), F.S.

⁸ Section 1004.43(4), F.S.

corporations that were formed in 1994.⁹ In 2006, the center announced that it was forming M2GEN, a for-profit subsidiary, with drug manufacturer Merck & Co. to develop personalized cancer treatments for patients using molecular technology.¹⁰ There is one other for-profit corporation that appears to be related.¹¹

Employees of the Moffitt Cancer Institute

Members of the Moffitt Cancer Institute are eligible to hold concurrent appointments at affiliated academic institutions, and University of South Florida faculty members are eligible to hold concurrent appointments at the Moffitt Cancer Institute. Historically, the vast majority of the physicians on the medical staff at the Institute have been employees of USF. On January 1, 2008, as part of the realignment of the affiliation between Moffitt and USF, a majority of these physicians previously employed by USF transferred to the Institute.¹²

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the government or its political subdivisions for the torts of officers or agents of such governments unless such immunity is expressly waived.

Article X, s. 13 of the Florida Constitution, recognizes the concept of sovereign immunity and gives the Legislature the right to waive such immunity, in part or in full, by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Subsection (5) limits the recovery of any one person to \$100,000 for one incident and limits all recovery related to one incident to a total of \$200,000. Where the state's sovereign immunity applies, subsection (9) provides that the officers, employees and agents of the state that were involved in the commission of the tort are not personally liable to an injured party.

The term "state agencies or subdivisions" includes the executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities.¹³

It is common for the state to create corporations and the authority to create subsidiary corporations. Whether such corporations are instrumentalities of the state is dependent upon the degree of control over the corporation or subsidiary. Where the subsidiary corporation is significantly controlled by government, it is an instrumentality of the state¹⁴; however, where the subsidiary acts with significant autonomy, it is not.¹⁵

⁹ State corporate records researched March 17, 2009. The search was limited to a search of the name "H. Lee Moffitt". The apparent related corporations are: H. Lee Moffitt Cancer Center and Research Hospital, Inc.; H. Lee Moffitt Cancer Center and Research Institute Lifetime Cancer Screening Center, Inc.; and H. Lee Moffitt Cancer Center and Research Institute Foundation, Inc.

¹⁰ From <http://www.moffitt.org/Site.aspx?spid=C54AF116F69244D49BACE202F69BC2A6>, accessed on 3/17/2009. M2GEN appears to be a trade name for Moffitt Genetics Corporation, a Florida for-profit corporation formed in 2007. The articles of incorporation of Moffitt Genetics provide that the sole shareholder of the corporation is the H. Lee Moffitt Cancer Center and Research Institute, Inc.

¹¹ Moffitt Technologies Corporation is a Florida for-profit corporation formed in 2005.

¹² Correspondence from the Moffitt Cancer Center (March 5, 2009), on file with the State Universities & Private Colleges Policy Committee.

¹³ Section 768.28(2), F.S.

¹⁴ *Pagan v. Sarasota County Hospital Board*, 884 So.2d 257 (Fla. 2nd DCA 2004); *Prison Rehabilitative Industries & Diversified Enterprises v. Betterson*, 648 So.2d 778 (Fla. 1st DCA 1994).

¹⁵ In *Shands Teaching Hospital & Clinics, Inc. v. Lee*, 478 So.2d 77, 79 (Fla. 1st DCA 1985), the court concluded that the nonprofit corporation to which the State Board of Education leased the Shands Teaching Hospital was not entitled to the benefit of sovereign immunity because the corporate entity was determined to be "an autonomous and self-sufficient entity, one not primarily acting as an instrumentality on behalf of the state."

One circuit court in Hillsborough County has ruled that the "H. Lee Moffitt Cancer Center and Research Institute of Tampa, Inc.", is an instrumentality of the State of Florida and, therefore, the corporation is "entitled to the protections of sovereign immunity and the limited waiver set forth in Section 768.28, Florida Statutes."¹⁶ The ruling did not consider whether any subsidiary corporation of the Moffitt Cancer Institute would similarly be considered an instrumentality of the state.

An entity that is an "instrumentality of the state" falls within the state's sovereign immunity. Section 1004.43(1), F.S., provides that the H. Lee Moffitt Cancer Center and Research Institute is an instrumentality of the state, thus making it clear that it is covered by sovereign immunity. The legislative intent of the bill allowing non-profit subsidiaries stated that any non-profit entity is an instrumentality of the state.¹⁷ Such intent language is not law, but will be considered by any court that would be called upon to determine whether the non-profits are covered by sovereign immunity. With regard to control, all of the subsidiaries appear to be providing medical care and services for cancer research and treatment, operate out of the same campus next to the University of South Florida, share corporate officers, and are controlled by the H. Lee Moffitt Cancer Center and Research Institute, Inc. It appears that the current subsidiaries are protected by sovereign immunity, although this is not specifically provided for in statute.

Medical Faculty Certificates

In general, a person must be granted a license to practice medicine from the state in order to practice medicine within the state. However, s. 458.3145, F.S., provides for exceptions to this rule whereby a physician may be granted a medical faculty certificate. A medical faculty certificate allows medical school faculty physicians to practice medicine at certain facilities in Florida without sitting for and successfully passing a licensure examination.¹⁸ A physician who receives a medical faculty certificate has all the rights and responsibilities as other licensed physicians, except the certificate holder may only practice in conjunction with a full-time faculty position at an accredited medical school and its affiliated clinical facilities or teaching hospitals.¹⁹ The initial medical faculty certificate is valid for 2 years and may be renewed (or extended) every two years thereafter.²⁰ The number of physicians holding renewed medical faculty certificates is statutorily limited by institution.²¹ To be eligible to receive a medical faculty certificate, an individual must:²²

- Be a graduate of an accredited medical school or its equivalent, or a graduate of a foreign medical school listed with the World Health Organization;
- Hold a valid, current license to practice medicine in another jurisdiction;
- Complete the application form and remit a nonrefundable application fee not to exceed \$500;
- Complete an approved residency or fellowship of at least one year or its equivalent;
- Be at least 21 years of age;
- Be of good moral character;

¹⁶ *McBride v. H. Lee Moffitt Cancer Center & Research Institute of Tampa, Inc.*, Case No. 95-CA-007231 (13th Judicial Circuit, February 2, 1996), at paragraph 1.b., recorded in OR Book 8039, Page 927, of the Public Records of Hillsborough County, Florida; *affirmed without opinion*, 683 So. 2d 122 (Fla. 2nd DCA 1996).

¹⁷ Chapter 93-167, L.O.F., provided in part: "Whereas, the Legislature considers the not-for-profit corporation that governs and operates the H. Lee Moffitt Cancer Center and Research Institute to be performing a statewide function and to be a corporation primarily acting as an instrumentality of the state, and, therefore, considers any subsidiaries created by virtue of this act to be corporations acting primarily as instrumentalities of the state..."

¹⁸ Section 458.3145(1) & (2), F.S.

¹⁹ Section 458.3145(2) & (3), F.S.

²⁰ Section 458.3145(2), F.S.

²¹ Section 458.3145(4), F.S.

²² Section 458.3145(1), F.S.

- Not have committed any act in Florida or any other jurisdiction which would constitute the basis for disciplining a physician; and
- Have accepted a full-time faculty appointment to teach in a program of medicine at a qualifying institution.

The qualifying institutions are:

- The University of Florida
- The University of Miami
- The University of South Florida
- The Florida State University
- The Florida International University
- The University of Central Florida
- The Mayo Medical School at the Mayo Clinic in Jacksonville, Florida

There is no limitation on the number of initial certificates a medical school or teaching institution may receive. However, the number of medical faculty certificates that may be renewed by each medical school or teaching institution is statutorily limited.²³ All medical schools, except the Mayo Medical School at the Mayo Clinic in Jacksonville, Florida, are limited to 15 renewed medical faculty certificates. The Mayo Clinic is limited to 5 renewed medical faculty certificates. The Moffitt Cancer Institute currently utilizes certificates assigned to the University of South Florida.²⁴

Effect of Proposed Changes

This bill expands the teaching and research programs of the Moffitt Center to other state universities, in addition to the University of South Florida. The bill removes the initial reference to the University of South Florida and provides that the Moffitt Cancer Institute is a "statewide resource for basic and clinical research and multidisciplinary approaches to patient care." The bill provides that the Moffitt Center can set up teaching and research programs at any of the state universities, not just at the University of South Florida. However, the bill leaves unchanged the provision by which the President of the University of South Florida, or his or her designee, is one of the directors of the corporation.

This bill replaces the remaining reference to the State Board of Education with "Board of Governors" to conform to other references in s. 1004.43, F.S., and the Education Code.

The bill specifically provides that the H. Lee Moffitt Cancer Center and Research Institute, Inc., and any authorized and approved subsidiary of the H. Lee Moffitt Cancer Center and Research Institute, Inc., whether not-for-profit or for-profit, are corporations primarily acting as an instrumentality of the state and therefore entitled to the sovereign immunity protection of s. 768.28, F.S.

The bill imposes further control over subsidiaries by requiring the Board of Governors' approval of the articles of incorporation of all corporate subsidiaries.

The bill provides that professional income generated by institute members from practice activities may be shared between the not-for-profit corporation and its subsidiaries, as determined by the chief executive officer.

The bill provides that only state university faculty may hold concurrent appointments at the Moffitt Cancer Institute.

²³ Section 458.3145(4), F.S.

²⁴ Section 458.3145(4), F.S.; The Department of Health does not distinguish between the Cancer Institute and the University of South Florida in relation to medical faculty certificates; E-mail correspondence with the Department of Health staff (February 11, 2009); HB 387 analysis, on file with the State Universities & Private Colleges Policy Committee.

The bill amends s. 458.3145(1)(i), F.S., to add the H. Lee Moffitt Cancer Center and Research Institute to the list of entities at which an individual may be issued a medical faculty certificate for that individual to practice medicine at such entity. The individual must comply with the requirements of s. 458.3145, F.S., which are the requirements applicable to such certificates at Florida medical schools.

B. SECTION DIRECTORY:

Section 1 amends s. 1004.43, F.S., regarding the H. Lee Moffitt Cancer Center.

Section 2 amends s. 458.3145, F.S., regarding medical faculty certificates.

Section 3 provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the H. Lee Moffitt Cancer Center and
 3 Research Institute; amending s. 1004.43, F.S.; revising
 4 provisions relating to the establishment of the institute
 5 and specifying primary responsibilities of the institute;
 6 conforming provisions relating to the agreement by the
 7 Board of Governors and the not-for-profit corporation for
 8 the use of facilities on the campus of the University of
 9 South Florida; specifying that the not-for-profit
 10 corporation and its subsidiaries shall act as
 11 instrumentalities of the state for purposes of sovereign
 12 immunity; authorizing the use of land, facilities, and
 13 personnel for teaching and research programs conducted by
 14 state universities; revising provisions relating to the
 15 control and sharing of certain income; providing a
 16 definition; amending s. 458.3145, F.S.; authorizing the
 17 issuance of a medical faculty certificate without
 18 examination to certain faculty at the H. Lee Moffitt
 19 Cancer Center and Research Institute; providing an
 20 effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Section 1004.43, Florida Statutes, is amended
 25 to read:

26 1004.43 H. Lee Moffitt Cancer Center and Research
 27 Institute.--There is established the H. Lee Moffitt Cancer
 28 Center and Research Institute, a statewide resource for basic

29 and clinical research and multidisciplinary approaches to
 30 patient care at the University of South Florida.

31 (1) The Board of Governors ~~State Board of Education~~ shall
 32 enter into an agreement for the utilization of the facilities on
 33 the campus of the University of South Florida to be known as the
 34 H. Lee Moffitt Cancer Center and Research Institute, including
 35 all furnishings, equipment, and other chattels used in the
 36 operation of said facilities, with a Florida not-for-profit
 37 corporation organized solely for the purpose of governing and
 38 operating the H. Lee Moffitt Cancer Center and Research
 39 Institute. ~~The This~~ not-for-profit corporation, ~~acting as an~~
 40 ~~instrumentality of the State of Florida,~~ shall govern and
 41 operate the H. Lee Moffitt Cancer Center and Research Institute
 42 in accordance with the terms of the agreement between the Board
 43 of Governors and the not-for-profit corporation. The not-for-
 44 profit corporation may, with the prior approval of the Board of
 45 Governors, create either for-profit or not-for-profit corporate
 46 subsidiaries, or both, to fulfill its mission. The not-for-
 47 profit corporation and any authorized and approved subsidiary
 48 shall be corporations primarily acting as instrumentalities of
 49 the state, pursuant to s. 768.28(2), for purposes of sovereign
 50 immunity. For-profit subsidiaries of the not-for-profit
 51 corporation may not compete with for-profit health care
 52 providers in the delivery of radiation therapy services to
 53 patients. The not-for-profit corporation and its subsidiaries
 54 are authorized to receive, hold, invest, and administer property
 55 and any moneys received from private, local, state, and federal
 56 sources, as well as technical and professional income generated

57 | or derived from practice activities of the institute, for the
 58 | benefit of the institute and the fulfillment of its mission. The
 59 | affairs of the corporation shall be managed by a board of
 60 | directors who shall serve without compensation. The President of
 61 | the University of South Florida and the chair of the Board of
 62 | Governors, or his or her designee, shall be directors of the
 63 | not-for-profit corporation, together with 5 representatives of
 64 | the state universities and no more than 14 nor fewer than 10
 65 | directors who are not medical doctors or state employees. Each
 66 | director shall have only one vote, shall serve a term of 3
 67 | years, and may be reelected to the board. Other than the
 68 | President of the University of South Florida and the chair of
 69 | the Board of Governors, directors shall be elected by a majority
 70 | vote of the board. The chair of the board of directors shall be
 71 | selected by majority vote of the directors.

72 | (2) The Board of Governors shall provide in the agreement
 73 | with the not-for-profit corporation for the following:

74 | (a) Approval of the articles of incorporation of the not-
 75 | for-profit corporation by the Board of Governors.

76 | (b) Approval of the articles of incorporation of any ~~not-~~
 77 | ~~for-profit~~ corporate subsidiary created by the not-for-profit
 78 | corporation.

79 | (c) Utilization of lands, facilities, and personnel by the
 80 | not-for-profit corporation and its subsidiaries for research,
 81 | education, treatment, prevention, and the early detection of
 82 | cancer and for mutually approved teaching and research programs
 83 | conducted by the state universities ~~University of South Florida~~
 84 | or other accredited medical schools or research institutes.

85 (d) Preparation of an annual financial audit of the not-
86 for-profit corporation's accounts and records and the accounts
87 and records of any subsidiaries to be conducted by an
88 independent certified public accountant. The annual audit report
89 shall include a management letter, as defined in s. 11.45, and
90 shall be submitted to the Auditor General and the Board of
91 Governors. The Board of Governors, the Auditor General, and the
92 Office of Program Policy Analysis and Government Accountability
93 shall have the authority to require and receive from the not-
94 for-profit corporation and any subsidiaries or from their
95 independent auditor any detail or supplemental data relative to
96 the operation of the not-for-profit corporation or subsidiary.

97 (e) Provision by the not-for-profit corporation and its
98 subsidiaries of equal employment opportunities to all persons
99 regardless of race, color, religion, sex, age, or national
100 origin.

101 (3) The Board of Governors is authorized to secure
102 comprehensive general liability protection, including
103 professional liability protection, for the not-for-profit
104 corporation and its subsidiaries pursuant to s. 1004.24. The
105 not-for-profit corporation and its subsidiaries shall be exempt
106 from any participation in any property insurance trust fund
107 established by law, including any property insurance trust fund
108 established pursuant to chapter 284, so long as the not-for-
109 profit corporation and its subsidiaries maintain property
110 insurance protection with comparable or greater coverage limits.

111 (4) In the event that the agreement between the not-for-
112 profit corporation and the Board of Governors is terminated for

113 any reason, the Board of Governors shall resume governance and
 114 operation of such facilities.

115 (5) The institute shall be administered by a chief
 116 executive officer who shall serve at the pleasure of the board
 117 of directors of the not-for-profit corporation and who shall
 118 have the following powers and duties subject to the approval of
 119 the board of directors:

120 (a) The chief executive officer shall establish programs
 121 which fulfill the mission of the institute in research,
 122 education, treatment, prevention, and the early detection of
 123 cancer; however, the chief executive officer shall not establish
 124 academic programs for which academic credit is awarded and which
 125 terminate in the conference of a degree without prior approval
 126 of the Board of Governors.

127 (b) The chief executive officer shall have control over
 128 the budget and the dollars appropriated or donated to the
 129 institute from private, local, state, and federal sources, as
 130 well as technical and professional income generated or derived
 131 from practice activities of the not-for-profit corporation and
 132 its subsidiaries ~~institute~~. However, professional income
 133 generated by state university faculty from practice activities
 134 at the institute shall be shared between the institute and the
 135 university as determined by the chief executive officer and the
 136 appropriate university dean or vice president. Professional
 137 income generated by institute members from practice activities
 138 may be shared between the not-for-profit corporation and its
 139 subsidiaries as determined by the chief executive officer. As
 140 used in this paragraph, the term "institute member" means an

141 individual employed by the not-for-profit corporation or a
 142 subsidiary as a clinical or scientific faculty member.

143 (c) The chief executive officer shall appoint members to
 144 carry out the research, patient care, and educational activities
 145 of the institute and determine compensation, benefits, and terms
 146 of service. Members of the institute shall be eligible to hold
 147 concurrent appointments at affiliated academic institutions.
 148 State university faculty shall be eligible to hold concurrent
 149 appointments at the institute.

150 (d) The chief executive officer shall have control over
 151 the use and assignment of space and equipment within the
 152 facilities.

153 (e) The chief executive officer shall have the power to
 154 create the administrative structure necessary to carry out the
 155 mission of the institute.

156 (f) The chief executive officer shall have a reporting
 157 relationship to the Board of Governors or its designee.

158 (g) The chief executive officer shall provide a copy of
 159 the institute's annual report to the Governor and Cabinet, the
 160 President of the Senate, the Speaker of the House of
 161 Representatives, and the chair of the Board of Governors.

162 (6) The board of directors of the not-for-profit
 163 corporation shall create a council of scientific advisers to the
 164 chief executive officer comprised of leading researchers,
 165 physicians, and scientists. This council shall review programs
 166 and recommend research priorities and initiatives so as to
 167 maximize the state's investment in the institute. The council
 168 shall be appointed by the board of directors of the not-for-

169 | profit corporation. Each member of the council shall be
 170 | appointed to serve a 2-year term and may be reappointed to the
 171 | council.

172 | (7) In carrying out the provisions of this section, the
 173 | not-for-profit corporation and its subsidiaries are not
 174 | "agencies" within the meaning of s. 20.03(11).

175 | (8)(a) Records of the not-for-profit corporation and of
 176 | its subsidiaries are public records unless made confidential or
 177 | exempt by law.

178 | (b) Proprietary confidential business information is
 179 | confidential and exempt from the provisions of s. 119.07(1) and
 180 | s. 24(a), Art. I of the State Constitution. However, the Auditor
 181 | General, the Office of Program Policy Analysis and Government
 182 | Accountability, and the Board of Governors, pursuant to their
 183 | oversight and auditing functions, must be given access to all
 184 | proprietary confidential business information upon request and
 185 | without subpoena and must maintain the confidentiality of
 186 | information so received. As used in this paragraph, the term
 187 | "proprietary confidential business information" means
 188 | information, regardless of its form or characteristics, which is
 189 | owned or controlled by the not-for-profit corporation or its
 190 | subsidiaries; is intended to be and is treated by the not-for-
 191 | profit corporation or its subsidiaries as private and the
 192 | disclosure of which would harm the business operations of the
 193 | not-for-profit corporation or its subsidiaries; has not been
 194 | intentionally disclosed by the corporation or its subsidiaries
 195 | unless pursuant to law, an order of a court or administrative
 196 | body, a legislative proceeding pursuant to s. 5, Art. III of the

197 State Constitution, or a private agreement that provides that
 198 the information may be released to the public; and which is
 199 information concerning:

200 1. Internal auditing controls and reports of internal
 201 auditors;

202 2. Matters reasonably encompassed in privileged attorney-
 203 client communications;

204 3. Contracts for managed-care arrangements, including
 205 preferred provider organization contracts, health maintenance
 206 organization contracts, and exclusive provider organization
 207 contracts, and any documents directly relating to the
 208 negotiation, performance, and implementation of any such
 209 contracts for managed-care arrangements;

210 4. Bids or other contractual data, banking records, and
 211 credit agreements the disclosure of which would impair the
 212 efforts of the not-for-profit corporation or its subsidiaries to
 213 contract for goods or services on favorable terms;

214 5. Information relating to private contractual data, the
 215 disclosure of which would impair the competitive interest of the
 216 provider of the information;

217 6. Corporate officer and employee personnel information;

218 7. Information relating to the proceedings and records of
 219 credentialing panels and committees and of the governing board
 220 of the not-for-profit corporation or its subsidiaries relating
 221 to credentialing;

222 8. Minutes of meetings of the governing board of the not-
 223 for-profit corporation and its subsidiaries, except minutes of
 224 meetings open to the public pursuant to subsection (9);

225 9. Information that reveals plans for marketing services
 226 that the corporation or its subsidiaries reasonably expect to be
 227 provided by competitors;

228 10. Trade secrets as defined in s. 688.002, including:

229 a. Information relating to methods of manufacture or
 230 production, potential trade secrets, potentially patentable
 231 materials, or proprietary information received, generated,
 232 ascertained, or discovered during the course of research
 233 conducted by the not-for-profit corporation or its subsidiaries;
 234 and

235 b. Reimbursement methodologies or rates;

236 11. The identity of donors or prospective donors of
 237 property who wish to remain anonymous or any information
 238 identifying such donors or prospective donors. The anonymity of
 239 these donors or prospective donors must be maintained in the
 240 auditor's report; or

241 12. Any information received by the not-for-profit
 242 corporation or its subsidiaries from an agency in this or
 243 another state or nation or the Federal Government which is
 244 otherwise exempt or confidential pursuant to the laws of this or
 245 another state or nation or pursuant to federal law.

246
 247 As used in this paragraph, the term "managed care" means systems
 248 or techniques generally used by third-party payors or their
 249 agents to affect access to and control payment for health care
 250 services. Managed-care techniques most often include one or more
 251 of the following: prior, concurrent, and retrospective review of
 252 the medical necessity and appropriateness of services or site of

253 services; contracts with selected health care providers;
 254 financial incentives or disincentives related to the use of
 255 specific providers, services, or service sites; controlled
 256 access to and coordination of services by a case manager; and
 257 payor efforts to identify treatment alternatives and modify
 258 benefit restrictions for high-cost patient care.

259 (c) Subparagraphs 10. and 12. of paragraph (b) are subject
 260 to the Open Government Sunset Review Act in accordance with s.
 261 119.15 and shall stand repealed on October 2, 2010, unless
 262 reviewed and saved from repeal through reenactment by the
 263 Legislature.

264 (9) Meetings of the governing board of the not-for-profit
 265 corporation and meetings of the subsidiaries of the not-for-
 266 profit corporation at which the expenditure of dollars
 267 appropriated to the not-for-profit corporation by the state are
 268 discussed or reported must remain open to the public in
 269 accordance with s. 286.011 and s. 24(b), Art. I of the State
 270 Constitution, unless made confidential or exempt by law. Other
 271 meetings of the governing board of the not-for-profit
 272 corporation and of the subsidiaries of the not-for-profit
 273 corporation are exempt from s. 286.011 and s. 24(b), Art. I of
 274 the State Constitution.

275 (10) In addition to the continuing appropriation to the
 276 institute provided in s. 210.20(2), any appropriation to the
 277 institute provided in a general appropriations act shall be paid
 278 directly to the board of directors of the not-for-profit
 279 corporation by warrant drawn by the Chief Financial Officer from
 280 the State Treasury.

281 Section 2. Paragraph (i) of subsection (1) of section
 282 458.3145, Florida Statutes, is amended to read:
 283 458.3145 Medical faculty certificate.--
 284 (1) A medical faculty certificate may be issued without
 285 examination to an individual who:
 286 (i) Has been offered and has accepted a full-time faculty
 287 appointment to teach in a program of medicine at:
 288 1. The University of Florida,
 289 2. The University of Miami,
 290 3. The University of South Florida,
 291 4. The Florida State University,
 292 5. The Florida International University,
 293 6. The University of Central Florida, ~~or~~
 294 7. The Mayo Medical School at the Mayo Clinic in
 295 Jacksonville, Florida, or
 296 8. The H. Lee Moffitt Cancer Center and Research
 297 Institute.
 298 Section 3. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

Bill No. CS/HB 491

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Full Appropriations Council on
 2 Education & Economic Development
 3 Representative(s) Ambler offered the following:

Amendment (with title amendment)

On line 50, after the period (.)

Notwithstanding the foregoing, sovereign immunity shall not
 apply to claims for bodily injury or death made against any person
 or entity who is a licensed health care provider acting within the
 course and scope of any agency relationship with a for-profit
 subsidiary where such bodily injury or death is legally caused by
 treatment or therapy, except when such treatment or therapy is
 undertaken pursuant to a research study conducted with the written
 informed consent of the patient, and as otherwise required by state
 and federal law governing human experimental treatment or therapy.

T I T L E A M E N D M E N T

On line 12, after the semi-colon (;) insert:
 providing exceptions;